In the High Court of Uttaranchal, at Nainital.
Writ Petition No. 70/2005 (S/B)

Gauri Shankar S/o Late Shiv Ram

R/o Mitra Colony, Talli Bamori,

Haldwani, District Nainital ….. Petitioner.

Versus

State of Uttaranchal and others .... Respondents.

Sri D.S. Patni, learned counsel for the petitioner.
Sri Anjali Bhargava, Addl. S.C. for Union of India.
Smt. Beena Pandey, learned S.C. for State of U.P.
Sri K.P .Upadhyaya, learned S.C. for the State of Uttaranchal.

Coram: Hon'ble M.M. Ghildiyal, J.
Hon'ble B.C. Kandpal, J.

Dated: 27-02-2006

Heard Sri D.S. Patni, learned counsel for the petitioner, Smt. Anjali Bhargava, Addl. S.C. for respondent Nos. 1, 2 and 3, Smt. Beena Pandey, learned S.C. for respondent Nos. 4,5, and 6 and Sri K.P. Upadhyaya, learned S.C. for respondent No. 1. No one has put in appearance for respondent No. 7.

2- By means of this writ petition the petitioner has prayed for the following releifs:-

(i) To issue a writ, order or direction in the nature of certiorari quashing the order dated 20th April, 2005 passed by the respondent No. 3 as far as it relates to the petitioner (Annexure -1 to the writ petition).

(ii) To issue a writ, order or direction in the nature of mandamus directing the respondents to consider the petitioner in the final allocation of cadre list and allocate Uttaranchal cadre (Agriculture Department).

3- This court on 11-5-2005 passed an order to the effect that- there will be an interim order restraining the respondents from relieving the petitioner from the State of Uttaranchal until further orders.

4- The submission of the learned counsel for the petitioner is that at the time of creation of Uttaranchal State the petitioner was working in the hill district of State of U.P. and after creation of Uttaranchal State he is still working till today in the State of Uttaranchal as Joint Director, Agriculture. The Union of India published tentative final

allocation list on 31-1-2005, in which the name of the petitioner did not find place though he is permanent residents of Uttaranchal and has opted for State of Uttaranchal. Consequently he filed objections on 12.2.2004 and 14-3-2005. However no decision was taken on the objections filed by the petitioner by the respondent Nos. 2 and 3 and final allocation list was published on 20-4-2005 in which again the name of the petitioner did not find place and he was compelled to file this writ petition. This court has passed the aforesaid order restraining the respondents from relieving the petitioner from the State of Uttaranchal.

5- Smt. Anjali Bhargava, Addl. S.C. on 8-12-2005 has submitted that the Union of India does not propose to file any counter affidavit. State of Uttaranchal has filed the counter affidavit, in which they have taken the stand that jurisdiction of alleged final list vests with the Union of India and the Union of India has allocated the petitioner for the State of U.P. and in view of the orders passed by the Union of India, the State of Uttaranchal is bound to relieve the petitioner for the State of U.P.

6- With the supplementary affidavit filed by the petitioner on 9-9-2005, he has annexed his objection 12-2-2004 and 14-3-2005 as Annexure Nos. 5 and 6 Smt. Anjali Bhargava has submitted that the respondent Nos. 2 and 3 are reconsidering the aforesaid objections of the petitioners.

7- In view of the aforesaid facts, the writ petition is finally disposed of with the direction to the respondent Nos. 2 and 3 to reconsider the objections of the petitioner dated 12-2-2004 and 14-3-2005, Annexure Nos. 5 and 6 to the supplementary affidavit dated 9-05-2005, within a period of six weeks, by a speaking order. Till the decision is taken on the objections of the petitioner he shall not be relieved from the State of Uttaranchal.

8- With these directions the writ petition is finally disposed of.

(B. C. Kandpal, J.) **(M. M. Ghildiyal, J.)**

ISB